



NEIL TORCZYNER
Attorney at Law
DIRECT TEL: 516.355.9612
DIRECT FAX: 516.355.9613
NTORCZYNER@HKPLAW.COM

February 22, 2018

U.S. Magistrate Judge Daniel J. Stewart
James T. Foley U.S. Courthouse
445 Broadway - 4th Floor
Albany, New York 12207

By: ECF

Re: Cinthia Thevenin, et al. v. The City of Troy, et al.
Docket No: 16-CV-01115(DJS)

Dear Judge Stewart:

The firm of Harfenist Kraut and Perlstein, LLP along with Hach & Rose, LLP, represents the Plaintiff in this matter. I write in reference to the Court's Order of February 12, 2018 (Docket Entry #59) which directed the parties to submit a status report by March 1, 2018. Please allow this letter to serve as same.

As the Court may recall, during the last telephone conference on January 26, 2018, the parties discussed the open discovery issues which included Plaintiffs' potentially taking further depositions of Randall French, Christopher Parker and Brandon Galligan. Defendants indicated that they required depositions of certain members of the Attorney General's Office. Finally, during the telephone conference both Plaintiffs and Defendants requested an extension of the time for expert disclosure which the Court permitted.

As part of this discussion, the parties advised the Court that they were still awaiting a ruling from the state court on their joint motion to unseal the grand jury minutes. Although it has now been more than four (4) months since the motion to unseal was submitted, there has not yet been a ruling on the application. Plaintiffs indicated that they would need the grand jury minutes prior to conducting a further deposition of Randall French and both Plaintiffs and Defendants discussed that the grand jury minutes would be necessary for the retention of potential incident/accident reconstruction expert witnesses.

Following the prior conference, Plaintiffs served expert disclosure which designated Dr. Gary Crakes as an expert witness as to economic loss. Defendants are still contemplating potentially retaining an expert witness as to economic loss as well.

As referenced above, both Plaintiffs and Defendants are also contemplating retaining incident/accident reconstruction expert witnesses. However, prior to retaining these witnesses, the parties would like an opportunity to view the grand jury transcripts. Furthermore, should the Court grant the Plaintiffs' pending motion for access to the French

HKP

U.S. Magistrate Daniel J. Stewart

February 22, 2018

Page 2 of 2

accident/incident reports and to depose Parker and Galligan as to statements made during the post incident group debriefing sessions, Plaintiffs would need to supply their prospective incident/accident reconstruction expert witness with those materials as well.

As referenced above, Defendants require depositions of the following individuals from the Office of the Attorney General Ronald Enfield (Investigator), Mitchell J. Paurowski (Investigator), Paul Clyne (Deputy Chief), Nicholas Viorst (Deputy Chief), Antoine J. Karam (Deputy Chief) and Jennifer Sommers (Assistant Attorney General). Following the completion of the depositions, Defendants would supply these transcripts to their prospective reconstruction expert for his report as well.

The parties thank the Court for its time and attention to this matter and look forward to discussing these issues further during next week's status conference.

Respectfully Submitted
HARFENIST KRAUT & PERLSTEIN, LLP
Attorneys for Plaintiffs

By: Neil Torczyner
Neil Torczyner

Respectfully Submitted
FITZGERALD MORRIS BAKER FIRTH, PC
Attorneys for Defendants

By: John D. Aspland
John D. Aspland, Jr.